



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER OF PATENTS AND TRADEMARKS
Washington, D.C. 20231
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/933,517	08/20/2001	Masaru Mizutani	6116.61001	5946

7590 03/27/2002

Antonio R. Durando
Durando Birdwell & Janke, P.L.C.
2929 E. Broadway Blvd.
Tucson, AZ 85716

EXAMINER

MAYO, TARA L

ART UNIT

PAPER NUMBER

3671

DATE MAILED: 03/27/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/933,517

Applicant(s)

MIZUTANI, MASARU

Examiner

Tara L. Mayo

Art Unit

3673

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-7 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-7 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 20 August 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on ____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 3.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). ____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: .

Art Unit: 3673

DETAILED ACTION

Response to Amendment

1. The Preliminary Amendment (paper no. 4) filed 28 January 2002 has not been entered because the instructions for entry are not clear.

Priority

2. Receipt is acknowledged of papers submitted under 35 U.S.C. 119(a)-(d), which papers have been placed of record in the file.

Information Disclosure Statement

3. The IDS (paper no. 3) filed 20 August 2001 has been lined through because no references were cited on the PTO-892.

Claim Objections

4. Claim 2 is objected to because of the following informalities: minor grammatical errors. On line 4, change "devices" to --device--. Appropriate correction is required.

Claim Rejections - 35 USC § 112

5. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Art Unit: 3673

6. Claims 1 through 7 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

The term "deep" in claim 1 is a relative term which renders the claim indefinite. The term "deep" is not defined by the claim, the specification does not provide a standard for ascertaining the requisite degree, and one of ordinary skill in the art would not be reasonably apprised of the scope of the invention. Claims 2 through 7 are each similarly rejected for the same recitation.

Regarding claims 2 and 3, the phrase "such as" renders the claim indefinite because it is unclear whether the limitations following the phrase are part of the claimed invention. See MPEP § 2173.05(d).

Claim 5 recites the limitation "the deep-sea water collecting device" on lines 3 through 4. There is insufficient antecedent basis for this limitation in the claim. Claims 6 and 7 are similarly rejected.

Claim 6 recites the limitation "the deep-sea water supply" on line 2. There is insufficient antecedent basis for this limitation in the claim. Claim 7 is similarly rejected.

Claim Rejections - 35 USC § 102

7. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Art Unit: 3673

8. Claims 1 and 2 are rejected under 35 U.S.C. 102(b) as being anticipated by Boyd et al. (U.S. Patent No. 3,026,538).

Boyd et al. '538 show a pool (11) that floats on the sea (via element 14), said pool characterized by using seawater and being equipped with a device (37) for collecting seawater; and moored at a fixed location by anchors (20).

9. Claim 4 is rejected under 35 U.S.C. 102(b) as being anticipated by Atwell (U.S. Patent No. 4,536,257).

Atwell '257 shows a pool (25) equipped with a seawater collecting device (14).

Claim Rejections - 35 USC § 103

10. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

11. Claim 3 is rejected under 35 U.S.C. 103(a) as being unpatentable over Boyd et al. (U.S. Patent No. 3,026,538) in view of Mougin (U.S. Patent No. 4,166,363).

Art Unit: 3673

Boyd et al. '538 disclose all of the features of the claimed invention with the exception(s) of :

the pool being equipped with a propeller.

Mougin '363 shows a floating pool provided with a propeller (3) for driving the same.

It would have been obvious to one of ordinary skill in the art of marine structures at the time of invention to modify the device shown by Boyd et al. '538 such that it would include a propeller to facilitate relocation of the pool in the seawater.

12. Claims 5 through 7 are rejected under 35 U.S.C. 103(a) as being unpatentable over Atwell (U.S. Patent No. 4,536,257).

Atwell '257 discloses a desalination system comprising:

a seawater collecting device (14),

the collecting device having a pipe (36) for supplying desalinated seawater to inshore habitats (col. 1, lines 11-17).

Atwell '257 does not expressly teach the water being supplied to:

accommodating facilities;

Art Unit: 3673

dining facilities; or

beauty shop/gymnasium facilities.

In view of the expressed desire of Atwell '257 to produce a potable water supply to areas otherwise uninhabitable by man (col. 1, lines 11-17), it would have been well within the ordinary level of skill for one in the art of water treatment and control at the time of invention to modify the patented system such that it would be used as a source of fresh water to a variety of public establishments. The motivation would have been to encourage the success of establishments in arid areas proximal a salt water source.

Conclusion

13. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Day (U.S. Patent No. 1,925,175), Stehr (U.S. Patent No. 2,464,358), Salisbury (U.S. Patent No. 3,078,472), O'Connell (U.S. Patent No. 3,099,018), Thompson (U.S. Patent No. 3,602,925), Ootsu (U.S. Patent No. 4,060,344), Palmer (U.S. Patent No. 4,087,870), and Kipers (U.S. Patent No. 5,638,556) all disclose floating pools.

Nam (U.S. Patent No. 6,032,304) discloses an 'artificially' made saltwater swimming pool.

Eichert (U.S. Patent No. 6,327,991) discloses a floating assembly for cleaning boats in a marine environment.

Art Unit: 3673

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Tara L. Mayo whose telephone number is 703-305-3019. The examiner can normally be reached on Monday through Friday 8:30 AM to 5:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Thomas B. Will can be reached on 703-308-3870. The fax phone numbers for the organization where this application or proceeding is assigned are 703-746-3795 for regular communications and 703-305-3597 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-2168.



FLM

19 March 2002



THOMAS B. WILL
Supervisory Patent Examiner
Group 3600